

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Michael T. Mason	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	02 C 2608	DATE	10/31/2002
CASE TITLE	King vs. City of Chicago		

MOTION: [In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

DOCKET ENTRY:

(1) Filed motion of [use listing in "Motion" box above.]

(2) Brief in support of motion due _____.

(3) Answer brief to motion due _____. Reply to answer brief due _____.

(4) Ruling/Hearing on _____ set for _____ at _____.

(5) Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.

(6) Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.

(7) Trial[set for/re-set for] on _____ at _____.

(8) [Bench/Jury trial] [Hearing] held/continued to _____ at _____.

(9) This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
 FRCP4(m) Local Rule 41.1 FRCP41(a)(1) FRCP41(a)(2).

(10) [Other docket entry] For the reasons stated in the attached Memorandum Opinion and Order, plaintiff's motion for reconsideration [19-1] is denied. Status hearing set for 11/26/02 at 9:00 a.m. Enter Memorandum Opinion and Order.

(11) [For further detail see order attached to the original minute order.]

	No notices required, advised in open court.		2	Document Number
	No notices required.		number of notices	
<input checked="" type="checkbox"/>	Notices mailed by judge's staff.		01/2002	
	Notified counsel by telephone.		date docketed	
	Docketing to mail notices.		G.Y.	docketing deputy initials
	Mail AO 450 form.		10/31/2002	date mailed notice
	Copy to judge/magistrate judge.		KF	mailing deputy initials
KF	courtroom deputy's initials	Date/time received in central Clerk's Office		

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DOCKETED

NOV 01 2002

William N. King,)
Plaintiff,)
v.) No. 02 C 2608
City of Chicago,) Magistrate Judge Mason
Defendant.)

MEMORANDUM OPINION AND ORDER

Michael T. Mason, United States Magistrate Judge:

This matter is before the Court on the plaintiff's motion for reconsideration of our September 18, 2002 order dismissing Count II of the plaintiff's complaint. For the reasons set forth below, the plaintiff's motion is denied.

"Motions for reconsideration serve a narrow function and must be supported by a showing of extraordinary circumstances justifying relief from judgment." *John Doe v. Bd. of Education of Oak Park River Forest High School Dist.*, No. 94 C 6449, 1996 WL 197690 (N.D.Ill. April 22, 1996). District court rulings are not to be viewed "as mere first drafts, subject to revision and reconsideration at a litigant's pleasure." *Quaker Alloy Casting Co. v. Gulfco Industries, Inc.*, 123 F.R.D. 282, 288 (N.D.Ill. 1988). Instead, motions for reconsideration are designed to correct manifest errors of law or fact or to present newly discovered evidence. *Publishers Resource, Inc. v. Walker-Davis Publications, Inc.*, 762 F.2d 557, 561 (7th Cir. 1985).

Plaintiff William King, a fire paramedic for the City of Chicago ("City"), brought a complaint against the City alleging that it violated the Americans with Disabilities Act of

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1990 ("ADA"), 42 U.S.C. §§ 12101 et. seq. In Count II of the complaint, the plaintiff alleged that the City violated the ADA when the Firemen's Annuity and Benefit Fund of Chicago ("Fund") refused to reinstate King's suspended duty disability benefits. In our September 18, 2002 opinion, we agreed with the City that it was not the proper party for Count II since the Fund has exclusive jurisdiction over duty disability benefits. Specifically, we held that the City did not have the power to reinstate the plaintiff's duty disability benefits because the Fund is an independent statutory entity and is not a department of the City of Chicago. Therefore, we granted defendant's motion to dismiss Count II of the complaint.

The plaintiff, in asking the Court to reconsider its September 18, 2002 opinion, argues for the first time that there were actually two separate parts to Count II. The first section dealt with the plaintiff's loss of duty disability benefits, which are administered by the Fund. The second section dealt with his loss of healthcare benefits, which are administered by the City. However, neither the complaint nor plaintiff's response to defendant's motion to dismiss indicates the distinction the plaintiff is now trying to advance. The only mention of healthcare benefits in Count II is in the statement, "King, a 21 year veteran, has been without pay, disability benefits or healthcare since May 17, 2001." (Cplt., para. 55). Although the City specifically stated that it was not a proper party to Count II because it did not administer the Fund, which had denied plaintiff benefits after it determined he was fit to return to work, plaintiff never argued in his response brief that the City was a proper party because it administered his healthcare benefits.

A motion for reconsideration is an "improper vehicle to introduce evidence previously available or to tender new legal theories." *Bally Export Corp. v. Balicar, Ltd.*, 804 F.2d 398, 404 (7th Cir 1986); *see also Quaker*, 123 F.R.D. at 288 (reconsideration of final rulings will not be granted to allow the losing party to rehash oral arguments or to present new legal arguments or facts which the party could have presented during the pendency of the underlying motion). Any evidence that the City, and not the Fund, administer healthcare benefits was available to the plaintiff during the briefing on the motion to dismiss, yet he did not advance that argument. Therefore, it cannot now, on a motion for reconsideration, be brought up for the first time.

Further, even if we were to consider plaintiff's argument, we would still dismiss Count II because the new argument advanced by the plaintiff does not change the fact that it is the Fund, not the City, that controls plaintiff's receipt of benefits. Specifically, the City has a contract with plaintiff's union to provide healthcare benefits to any union member who is receiving disability benefits from the Fund. When the Fund determined that the plaintiff was not disabled, the City – pursuant to contract – ceased paying for the plaintiff's healthcare. This result stemmed solely from the Fund's decision to stop providing plaintiff with disability benefits and thus it is still the actions of the Fund, not the City, which gave rise to the cause of action in Count II. The City did not make any sort of independent determination about plaintiff's entitlement to benefits, and thus, is not the proper party.

For the reasons set forth above, the plaintiff's motion for reconsideration is denied. It is so ordered.

ENTER:


MICHAEL T. MASON
United States Magistrate Judge

Dated: October 31, 2002